

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case No.: 10-N-05699-LMA
	)	
<b>GREGORY CHANDLER,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 158260,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

**I. Introduction**

In this default disciplinary matter, respondent **Gregory Chandler** is charged with failure to comply with California Rules of Court, rule 9.20.<sup>1</sup>

The court finds, by clear and convincing evidence, that respondent is culpable of the alleged counts of misconduct. In view of respondent's serious misconduct and the evidence in aggravation, the court recommends that respondent be disbarred from the practice of law.

**II. Pertinent Procedural History**

On July 1, 2010, the Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed and properly served on respondent a Notice of Disciplinary Charges (NDC) at his official membership records address. Respondent did not file a response.

By order of the court, on August 26, 2010, respondent's default was entered and respondent was enrolled as an inactive member on August 29, 2010.

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<sup>1</sup> References to rules are to the California Rules of Court, unless otherwise noted.

Respondent did not participate in the disciplinary proceedings. The matter was submitted on September 15, 2010, following the filing of the State Bar's brief on culpability and discipline.

### **III. Findings of Fact and Conclusions of Law**

All factual allegations of the NDC are deemed admitted upon entry of respondent's default unless otherwise ordered by the court based on contrary evidence. (Rules Proc. of State Bar, rule 200(d)(1)(A).)

Respondent was admitted to the practice of law in California on June 8, 1992, and has since been a member of the State Bar of California.

#### **Violation of California Rules of Court, Rule 9.20**

On February 24, 2010, in California Supreme Court case No. S178791 (State Bar Court case Nos. 07-O-10093 (07-O-11461; 08-O-11430; 08-O-11656)), the Supreme Court suspended respondent from the practice of law in California for three years, stayed the execution of that period of suspension, subject to certain conditions, including that he be suspended from the practice of law for a minimum of two years and will remain suspended until he satisfies certain specified requirements. Among other things, the Supreme Court ordered respondent to comply with California Rules of Court, rule 9.20(a) and (c), within 30 and 40 days, respectively, after the effective date of the Supreme Court order. The order, which was duly served on respondent, became effective March 26, 2010, thirty days after it was filed. (Cal. Rules of Court, rules 8.532(a) and 9.18(b).)

California Rules of Court, rule 9.20(c) mandates that respondent "file with the Clerk of the State Bar Court an affidavit showing that he or she has fully complied with those provisions of the order entered under this rule."

Respondent was to have filed the rule 9.20 affidavit by May 5, 2010, but to date, he has not done so and has offered no explanation to this court for his noncompliance. Whether

respondent is aware of the requirements of rule 9.20 or of his obligation to comply with those requirements is immaterial. “Willfulness” in the context of rule 9.20 does not require actual knowledge of the provision which is violated. The Supreme Court has disbarred attorneys whose failure to keep their official addresses current prevented them from learning that they had been ordered to comply with rule 9.20. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

Therefore, the State Bar has established by clear and convincing evidence that respondent willfully failed to comply with rule 9.20, as ordered by the Supreme Court in S178791.<sup>2</sup>

Furthermore, respondent’s failure to comply with rule 9.20 constitutes a violation of Business and Professions Code section 6103, which requires attorneys to obey court orders and provides that the willful disobedience or violation of such orders constitutes cause for disbarment or suspension.

#### **IV. Mitigating and Aggravating Circumstances**

The parties bear the burden of establishing mitigation and aggravation by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,<sup>3</sup> stds. 1.2(e) and (b).)

##### **A. Mitigation**

No mitigation was submitted into evidence. (Std. 1.2(e).)

##### **B. Aggravation**

There are several aggravating factors. (Std. 1.2(b).)

Respondent’s prior record of discipline includes two previous impositions of discipline. (Std. 1.2(b)(i).)

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<sup>2</sup> Specifically, rule 9.20(d) provides that a suspended attorney’s willful failure to comply with rule 9.20 constitutes a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime.

<sup>3</sup> Future references to standard(s) or std. are to this source.

In the underlying matter, the California Supreme Court issued an order on February 24, 2010, effective March 26, 2010, suspending respondent from the practice of law for three years, stayed, subject to conditions, including, among others, that he be suspended from the practice of law for a minimum of two years and remain suspended until the following three requirements are satisfied: (1) respondent must pay specified restitution and furnish proof thereof to the State Bar's Office of Probation; (2) the State Bar Court grants a motion to terminate respondent's actual suspension pursuant to rule 205 of the Rules of Procedure; and (3) respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney sanctions for Professional Misconduct. This discipline stemmed from a default proceeding in which respondent was found culpable in four client matters of 11 counts of misconduct, including failing to perform competently, failing to communicate, failing to return unearned fees, failing to render an accounting, failing to avoid adverse interests, making misrepresentations to the court, committing acts of moral turpitude, and engaging in the unauthorized practice of law. In aggravation, respondent: (1) committed multiple acts of misconduct; (2) caused significant harm to clients; (3) demonstrated indifference toward rectification of or atonement for the consequences of his misconduct; and (4) failed to cooperate with the State Bar before his default. No mitigating factors were found. (Supreme Court case No. 178791; State Bar Court case Nos. 07-O-10093 (07-O-11461; 08-O-11430; 08-O-11656).)

On November 22, 2010, the California Supreme Court issued an order (S186180), suspending respondent from the practice of law for three years, stayed, subject to conditions, including, among others, that he be suspended from the practice of law for a minimum of two years and three months, beginning retroactively on March 26, 2010, and remain suspended until the following two requirements are satisfied: (1) the State Bar Court grants a motion to terminate

respondent's actual suspension pursuant to rule 205 of the Rules of Procedure and (2) respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney sanctions for Professional Misconduct.<sup>4</sup> This discipline stemmed from a default proceeding in which respondent was found culpable of engaging in the unauthorized practice of law, engaging in conduct involving moral turpitude, failing to cooperate with the State Bar in a disciplinary investigation, and failing to update his official membership records address with the State Bar's Office of Membership Records. In aggravation, respondent had a prior record of discipline and committed multiple acts of misconduct. No mitigating factors were found. (Supreme Court case No. 186180; State Bar Court case No. 09-O-12855.)

Respondent demonstrated indifference toward rectification of or atonement for the consequences of his misconduct by failing to comply with rule 9.20(c), even after the NDC in the instant proceeding was filed. (Std. 1.2(b)(v).)

Respondent's failure to cooperate with the State Bar before the entry of his default, including filing an answer to the NDC, is also a serious aggravating factor. (Std. 1.2(b)(vi).)

## **V. Discussion**

Respondent's willful failure to comply with rule 9.20(c) is extremely serious misconduct for which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Such failure undermines its prophylactic function in ensuring that all concerned parties learn about an attorney's suspension from the practice of law. (*Lydon v.*

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<sup>4</sup> The Supreme Court's order was filed after the State Bar submitted its brief on culpability and discipline and exhibits in this proceeding. Therefore, the State Bar was unable to introduce a copy of the Supreme Court order in case No. S186180 (09-O-12855). Due to these unusual circumstances, the court has independently obtained a copy of this order. The court hereby directs the Clerk to mark the Supreme Court order in case No. S186180 (09-O-12855) as a court exhibit in this proceeding and to include that exhibit as a part of the record that is transmitted to the Supreme Court.

*State Bar* (1988) 45 Cal.3d 1181, 1187.) Respondent has demonstrated an unwillingness to comply with the professional obligations and rules of court imposed on California attorneys although he has been given opportunities to do so.

Therefore, respondent's disbarment is necessary to protect the public, the courts and the legal community, to maintain high professional standards, and to preserve public confidence in the legal profession. It would undermine the integrity of the disciplinary system and damage public confidence in the legal profession if respondent were not disbarred for his willful disobedience of the Supreme Court order.

## **VI. Recommendations**

### **A. Discipline**

Accordingly, the court recommends that respondent **Gregory Chandler** be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys in this state.

### **B. California Rules of Court, Rule 9.20**

It is also recommended that the Supreme Court order respondent to comply with California Rules of Court, rule 9.20, paragraphs (a) and (c), within 30 and 40 days, respectively, of the effective date of its order imposing discipline in this matter.<sup>5</sup>

### **C. Costs**

It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

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<sup>5</sup> Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

## **VII. Order of Involuntary Inactive Enrollment**

It is ordered that respondent be transferred to involuntary inactive enrollment status under Business and Professions Code section 6007, subdivision (c)(4), and rule 220(c) of the Rules of Procedure of the State Bar. The inactive enrollment will become effective three calendar days after this order is filed.

Dated: March \_\_\_\_\_, 2011

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LUCY ARMENDARIZ  
Judge of the State Bar Court